Previous references.

File No. 2588-08

1908.

Serial Nos. 1-4

(Courts)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-4

Part B. for April 09

SUBJECT.

Rules regarding the Stamp duty on partition-decrees

Contents

1. ~~From~~ To the Registrar, chief Court. J. 2283 dt 8-2-09 and Stamp Commissioner. J. 2284 dt 8-2-09 — Invites opinion in the matter abovereferred

2. From the Regr. chief Court — No 4904 dt 16-2-09, stating that the question is purely of a fiscal nature to be decided by Govt

3. ~~From~~ the Stamp Commr — No 517 dt 4-3-09 with reasons that no change in the existing rules is necessary.

4. To the Regr, chief Court: the Stamp Commr. — & the Dy Commr Ns. 3186-88 dt 17-4-09 — states that no change in the existing law

G. R. S. 58

G.R.S.11] 1908-09

GENERAL AND REVENUE SECRETARIAT

(Courts.)

NOTES.

Gb File No. 250-08

FILE HEADING.

Stamp duty on partition decrees.

From

No. Dated Received

Diary No. | Enclos. | Spare Copies | Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

P.J.O.

NOTES—First sheet

GPB—30,000—3-1-07

SUBJECT No. 42.

Stamp duty on partition decrees.

Mr. H. V. Bhima Rao, Malur Taluk.

Summary of discussion.—Whenever decrees for the partition of either movable or immovable properties are passed, the courts call upon the plaintiff to get these decrees stamped according to the stamp law before suing out for execution. In other words, the plaintiff has to pay a double duty for one and the same decree, *viz.*, the institution fee at 7½ per cent and again the stamp duty under the Stamp Regulation, 1900. This causes great hardship to the parties. The Stamp Regulation, 1900, may therefore be amended by excluding partition decrees from the definition of partition deeds.

Reply of Government.—Will be considered.

Submitted with a draft Calling for the opinion of the Chief Court on the matter.

Hcs SR
1/2/09 1/2/09.

Please put up a copy of the Stamp Regulation

3.2.09.

Subd with a copy of the Stamp Regulation

Hcs CRW
4.2.09

The question is more one of a purely fiscal nature. However the draft may issue, as there is no harm in Consulting. Consult also the Stamp Commr

4.2.09.

Sec
wl

2.1.09.

G. R. S. 12]
General and Revenue Secretariat.

Gb. File No. 250 of 1908-09.

Serial No.	
1	To the Registrar, Chief Court N° J 2283 38/1 dg & Stamp Commissioner, N° J 2284 38/2 dg Calls for the opinion of the Chief Court and the Commissioner of Stamps in the matter.
2	From the Registrar, Chief Court N° 4904/257 & 6.2.09. States that the question is purely a fiscal one to be decided by Govt
3	From the Commissioner of Stamps N° 577 & 4.3.09. States for reasons given no Change in the present law is called for. Submitted for orders. HCS 10/3/09. B.G. 10.3.09 I am inclined to agree with the Stamp Commissioner. The representation of the members that plaintiff has to pay a "double duty" is not strictly correct, for the ~~institution fee is paid~~ Court fee and the Stamp fee are paid for two wholly different purposes viz the former for invoking the aid of the Court to settle the dispute and the latter for the recording transaction. Government

NOTE—Contn. sheet.

GPB—50,000—18-5-08

G. R. S. 12]
General and Revenue Secretariat.

File No. 250 of 1908-09

Serial No.

Cases all such transactions and there is no reason why a partition-deed, Executed as a result of a decree, should be exempted.

After all, partition suits are not very numerous and the grievance, if any, is not one to call for any urgent relief.

12.3.09.

Secretary) I agree in the view stated above. There seems to be no need to make any change -

Dewan through 2nd)

13/3/09

14/3/09

I agree

12/3/3 15/3/09

15/3/09

15/3/09

Draft Subd.

29/3/09

Draft Subd -

3.4.09. 5/4/09

2nd

May be approved

5/4/09

Secretary)

NOTE:- Contn sheet.

GPB - 50,00017--3-07

G. R. S. 12]
General and Revenue Secretariat.

ch File No. 250 of 1908

Serial No.

I do not agree with the ~~Revenue~~ Comm^r of Stamps. But as his views have been accepted by the 1st C^r the late & Dewan I am not sure if there is any use in recording the reasons for my dissent. If the Dewan considers that the matter is not closed I shall submit my views.

7/4/9

S-1 / 7-4-09

The Dewan.

Draft approved with an addition

Submit to 2nd & thereafter

S.R. 10/4.

Subd & 2nd Cr.

B Rie 12-4-09

SV 10/4

Seen. It may issue.

11/4

:4/4

P.T.O

GPB—50.000—18-5-08

G. R. S. 12]
General and Revenue Secretariat.

cb File No. 250 of 1908

Serial No.	
4	To The Registrar, Chief Court of Mysore, the Stamp Commissioner & the Dy. Commissioner of Kolar no. J 3186-88 dt 17-4-09 States that there is no reason to make any change in the existing law which moreover is the same as in British India

NOTE—Contn. sheet.

GPB—50.000—13-5-08

G.R.S. 26]

Ch. File No. 250-8

Serial No. 1

Diary No. of letter replied to _____

No. 1) J 2283
2) " 2284,
Dt. 8th Feb 09

General and Revenue Secretariat

( )

, *the* . 190 .

To 1) The Registrar of the Chief Court of Mysore
2) The Stamp Commissioner in Mysore

Date of issue 8/2

Signed by Mr S Srinivasaraiya.

I have the honor to invite his attention to the marginally noted subject of the Representative Assembly Proceedings of 1908, and the reply of Govt. thereto, and to request that he will be so good as to favour Govt with the opinion of the Chief Court in the matter.

By Order,

To, Secretary

(Here enter Subject & No 2 and the reply of Govt).

Dft
Hes W/1/09
1/2/09

SUBJECT.

over.

Appd w/l
Compt 9/2

2

No 4904
III 4 17 R 57
05 17 1

J 2095

Bangalore
Dated the 16th February 1909.
Ch File No 150-08
Sl No 2

From The Registrar,
Chief Court of Mysore.

To The Secretary to Government,
General & Revenue Departments.

Sir,

Referring to your no. J. 2283
Ch. 250-08-1
dated the 8th instant in re Stamp duty on partition decrees (Subject no. 42 of the Representative Assembly Proceedings of 1908), I am directed to state that, if any remission of Stamp duty is deemed expedient, such remission may be effected by means of an order published under Section 9 of the Mysore Stamp Regulation 1900. As the question raised is purely a fiscal question,

the

the expediency or inexpediency of the remission is a matter to be decided by the Government.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

C.S.

III/3 1/3 Cs 1903 J2256 3

190

From

The Commissioner of Stamps in Mysore, Bangalore.

To

The Secretary to the Govt. of H.H. The Maharajah of Mysore, Revenue and Revenue Department

Dated
Despatched } 4-3-09
Received

General No. 517
No.

Enclosure No. nil

Cf File 1850 08
81 N. 3

stating that is not true that parties have sometimes to pay a double duty whenever decrees for partition are passed by Civil Courts, as alleged by the Representation Mr. H.V. Bheima Row of Madras, and that the present rule here is the same as that now in force in Madras

4

No. 517

Office of the Commissioner of Stamps
in Mysore,
Dated Bangalore, 4th March 1909.

From :-

H.H.Sparkes Esq,
Commissioner of Stamps,
in Mysore, Bangalore.

To

C.S.Balasundaram Iyer Esq,.B.A.,
Offg.Secretary to the Govt.of H.H.
the Maharajah of Mysore,
General and Revenue Departments.

Sir,

Adverting to your docket No.J.2284/C/S.250-08-1 dated 8th Ultimo, regarding the Stamp duty payable on partition decrees I have the honor to state as follows :-

Partitions, like all other acts, should be effected by the parties themselves and if, in any case, the intervention of the Court is applied for, it is but reasonable that the parties should pay something for the task imposed upon the Court of enquiring into the dispute and determining the shares of the several co-owners. It is on this account that the institution fee of 7½% is levied and not for the partition consequently ordered by the Court which, being a separate and distinct transaction, is liable to a separate duty.

Partitions so ordered being, however as valid and effective as regular deeds of partition, there is a risk of no such deed being at all executed, the duty due thereon to Government being thus evaded. It is in view to prevent this evasion that Orders of Courts effecting partitions are now required to be stamped as regular partition deeds whether such deeds are afterwards executed in pursuance of the order or not.

It

It is not however every such order but only the final one that is required to be so stamped.This will cause hardship in case where regular deeds are executed in accordance with such order;for,the parties would then have to pay the same duty twice, once for the order and again for the deed. But this hardship is removed by the provision contained in clause (c) of the note to Article 43 of Schedule I of the Stamp Regulation to the effect that when a final order for effecting a partition passed by any Revenue authority or any Civil Court,or an award,by an arbitrator directing a partition is stamped by the Stamp required for an instrument of partition and a partition deed in pursuance of such order or award is subsequently executed,the duty on such instrument shall not exceed 8 annas .Even as regards the institution fee,it would appear that it is only in contested cases that the whole of it is recovered,half of it being refunded if the suit is not contested. In these circumstances,I am of the opinion that no change in the present Law which is the same as that in force in British India is now called for.

I have the honor to be,

Sir,

Your most obedient servant,

H H Sparke

Commissioner of Stamps.

G.R.S. 28]

ab Cb. File No. 250-08

Serial No. 4

Diary No. of letter replied to 9256

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

( )

, *the* 190

Date of issue 17.6.09

Signed by [illegible]

READ—

Subject R 42 of the Proceedings of the Representative Assembly of 1908 and the reply of Govt. thereto regarding the Stamp duty payable on partition decrees

~~ORDER THEREON.—No.~~

(2) Letter R 4904/25 dated the 16th February 1909 from the Registrar of the Chief Court of Mysore in the matter.

(3) Letter R 517 dated the 4th March 1909 from

over

SUBJECT

GPB—10,000—10-4-06

The Commissioner of Stamps
expressing his opinion in
the matter

256

Order thereon A 3186-88 of 12-4-09

Govt observe that the
representation of the R.A.
member that the plaintiff
has to pay a "double duty"
is not strictly correct, for
the Court fee and the
Stamp fee are paid for
two totally different
purposes. Viz, the former
for invoking the aid
of the Court to settle
the dispute and the latter
for recording the resulting transactions

Govt They therefore see no reason to make any change in the existing law.

~~Which moreover is the same as executed as a result of a decree should be exempted.~~

To
The Registrar Chief Court
" Commissioner of Stamps
" Deputy Commr, Kolar
Dist for Communication
to the R.A. member
Concerned.

Copy to the Dasara Section

Secretary

3-4-09